

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
No. 5:10-HC-2082-BO

CLYDE M. HALL, JR.,

Petitioner,

v.

TRACY W. JOHNS,

Respondent.

**ORDER**

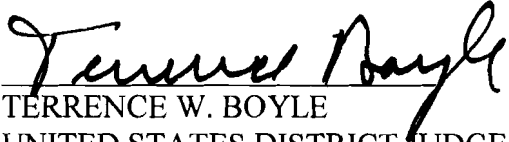
On April 26, 2010, Clyde M. Hall, Jr., (“Hall” or “petitioner”) filed a petition for writ of habeas corpus [D.E. 1] under 28 U.S. C. § 2241 (“§ 2241”), challenging his present confinement under 18 U.S.C. § 4248 (“§ 4248”). On December 13, 2010, Tracy W. Johns (“Johns” or “respondent”) filed a motion to dismiss [D.E. 6] and supporting memorandum [D.E. 7].

The United States Court of Appeals for the Fourth Circuit’s recent decision in Timms v. Johns, No. 10-6496, 2010 WL 4925395 (4th. Cir. Dec. 6, 2010), held that a person against whom a § 4248 action has been initiated must exhaust all remedies within the § 4248 action prior to seeking a writ of habeas corpus under § 2241. Because the § 4248 action against petitioner in this case remains pending in this court (See United States v. Hall, No. 5:09-HC-2083-BO), petitioner has not exhausted all remedies.

Accordingly, the motion to dismiss [D.E. 6] is hereby ALLOWED, and the petition for writ of habeas corpus [D.E. 1] is hereby DISMISSED WITHOUT PREJUDICE. All other pending motions [D.E. 5 and 10] are hereby DENIED AS MOOT. The Clerk is DIRECTED to CLOSE the case.

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SO ORDERED. This 16 day of January 2011.

  
TERRENCE W. BOYLE  
UNITED STATES DISTRICT JUDGE